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Patent

29752/36543A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:

HAY et al.

Serial No.: 09/626,576

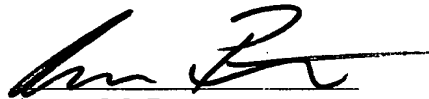
For: APPARATUS AND
METHODS FOR SELECTING
FARMS TO GROW A CROP OF
INTEREST

Filed: July 27, 2000

Group Art Unit: 2761

Examiner: Not Yet Assigned

) I hereby certify that this paper
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) addressed to: Commissioner
) for Patents, Washington, D.C.
) 20231, on this date:
) **November 5, 2001**

) 
) Aaron M. Peters
) Registration No. 48,801
) Attorney for Applicants

**REQUEST FOR RECONSIDERATION OF DECISION ON
PETITION TO MAKE SPECIAL**

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This paper is in response to a Decision On Petition to Make Special dated September 4, 2001. Enclosed herewith is a Renewed Petition to Make Special along with a Preliminary Amendment. Please enter the Preliminary Amendment and grant the Petition in view of the following remarks. Favorable reconsideration is respectfully requested.

As an initial matter, the applicants note that, contrary to the examiner's assertion, MPEP §708.02 (VIII) does not require a statement in the Petition that all the claims presented are directed to a single invention. MPEP §708.02 (VIII) only requires that the applicant presents all claims directed to a single invention, or that the applicant will make an election without traverse if the Office determines that all the claims are not obviously directed to a single invention. There is no requirement that the applicants make a statement to this effect. However, in order to facilitate the grant of this Petition to Make Special, the Renewed Petition to Make Special now includes a statement that all the claims presented are directed to a single invention. As a result, the Petition overcomes the asserted deficiency that it does not comply with Part (B) of MPEP §708.02 (VIII).

Turning to the examiner's second reason for denying the Petition, the examiner asserts that the Petition does not comply with Part (E) of MPEP §708.02 (VIII), since the "discussion does not clearly show how the *claimed* subject matter is patentable over the references," and that the "argued features do not cover all independent claims." As an example, the examiner states that "the argued feature used in the discussion of the references of a 'method or apparatus that determines possible offers to be made to farms to grow a crop of interest' does not appear in claim 1," since "[c]laim 1 calls for determining possible offers to be made to farms for growing at least one crop *different from* the crop of interest." However, the examiner misreads claim 1. Claim 1 specifically recites

“a farm selector ... to select farms ... to receive an offer to grow the crop of interest.” (emphasis added). While it is certainly true that claim 1 also recites an offer developer to determine possible offers to be made to farms based at least in part upon estimated profits to be earned from growing at least one crop different from the crop of interest, in claim 1 farms are expressly selected to receive an offer to grow the crop of interest. In other words, the at least one crop which is different from the crop of interest is *used to determine* possible offers to be made to farms to grow the crop of interest, because one alternative to growing the crop of interest is growing crops different than the crop of interest. However, claim 1 is quite clear that the developed offer is for growing the crop of interest.

Claim 18 recites “determining possible offers to be made to the farms in the set of farms based at least in part upon the estimated profits to be earned for growing the at least one crop which is different from the crop of interest; and selecting farms from the set of farms to receive an offer to grow the crop of interest.” As with claim 1, the at least one crop which is different from the crop of interest is used as a basis for determining possible offers to be made to the farms to grow the crop of interest.

From the foregoing, it is quite clear that the discussion in the Petition to Make Special shows one way that the claimed subject matter distinguishes the art.

In view of the foregoing, it is respectfully submitted that the Petition to Make Special has been perfected. Granting of the Petition to Make Special is respectfully requested.

Respectfully submitted,

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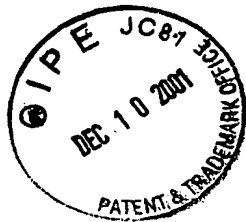
A handwritten signature in black ink, appearing to read 'A. Peters', written over a horizontal line.

Aaron M. Peters

Registration No.: 48,801


Attorney for Applicants

November 5, 2001



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METHODS FOR SELECTING)	20231, on this date:
FARMS TO GROW A CROP OF)	
INTEREST)	November 5, 2001
)	
Filed: July 27, 2000)	
)	Aaron M. Peters
Group Art Unit: 2761)	Registration No. 48,801
)	Attorney for Applicants
Examiner: Not Yet Assigned)	

**RENEWED PETITION TO MAKE SPECIAL
UNDER 37 C.F.R. § 1.102**

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicants hereby request that the above-identified new application be granted special status for examination under the provisions of 37 C.F.R. § 1.102 and M.P.E.P. § 708.02 (VIII). This application has not yet received any examination by the Examiner.

The \$130 petition fee, set forth in 37 C.F.R. § 1.17(h) and required by M.P.E.P. § 708.02 (VIII) (A) has already been paid with the submission of the

original Petition to Make Special. Any additional required fee may be charged

to Deposit Account No. 13-2855.

The applicants submit that all the claims presented are directed to a single invention. Should the Office determine that all the claims are not directed to a single invention, the applicants will make an election without traverse in order to be granted special status.

A pre-examination search was made, as required by M.P.E.P. § 708.02

(VIII) (C). The following areas were searched:

(1) class 705, subclasses 7, 10, 14; and

(2) class 706, subclasses 904, 912, 925

The art developed in the search and/or already known to the applicants is listed below:

U.S. Patent Documents

<u>Document Number</u>	<u>Issue Date</u>	<u>Name</u>	<u>Class</u>	<u>Subclass</u>	<u>Filing Date</u>
5,130,925	07/14/1992	Janes et al.	364	420	02/20/1991
5,327,708	07/12/1994	Gerrish	56	1	06/20/1991
5,521,813	05/28/1996	Fox et al.	364	401	01/15/1993
5,566,069	10/15/1996	Clark, Jr. et al.	364	420	03/07/1994
5,608,620	03/04/1997	Lundgren	395	201	02/17/1995
5,689,418	11/18/1997	Monson	364	420	01/03/1995
5,699,244	12/16/1997	Clark, Jr. et al.	364	420	06/16/1995
5,787,283	07/28/1998	Chin et al.	395	701	10/27/1995
5,884,224	03/16/1999	McNabb et al.	702	2	03/07/1997
5,884,225	03/16/1999	Allen et al.	702	3	02/06/1997
5,897,619	04/27/1999	Hargrove, Jr. et al.	705	4	11/07/1994

6,002,984	12/14/1999	Aughenbaugh	702	2	05/04/1998
6,064,943	05/16/2000	Clark, Jr.	702	2	02/20/1998
et al.					

As required by M.P.E.P. § 708.02 (VIII) (D), these disclosures are being made of record in the application by the filing of an information disclosure statement concurrently herewith. One copy of each of the documents is attached hereto for the convenience of the officer reviewing this petition.

Applicants submit that the claimed subject matter is patentable over the above-identified disclosures. None of the disclosures disclose or suggest an apparatus for selecting farms to grow a crop of interest comprising, among other things, a farm identifier to develop a set of farms capable of growing the crop of interest, a competition analyzer to estimate profits to be earned by farms for growing a crop different from the crop of interest, an offer developer to determine possible offers to be made to the farms, and a farm selector to select farms to receive an offer to grow the crop of interest. Moreover, none of these documents disclose or suggest a method of selecting farms to grow a crop of interest comprising, among other things, the steps of developing a set of farms capable of growing the crop of interest, estimating profits to be earned by farms for growing a crop different from the crop of interest, determining possible offers to be made to the farms, and selecting farms to receive an offer to grow the crop of interest.

Janes et al., U.S. Patent 5,130,925, disclose a computer that models plant growth to provide off-season production plans and calculates the value of the predicted yield based upon market data. See e.g. Janes et al., col. 7, lines 42-51. However, among other things, Janes et al. do not disclose a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Gerrish, U.S. Patent 5,327,708, discloses a system for testing and evaluating a crop being harvested. Information is generated relating to the economic value of the crop currently being harvested. See e.g. Gerrish col. 14, lines 55-58. Gerrish further discloses selecting farms for evaluating research products based on a variety of factors. See e.g. Gerrish col. 9, lines 21-62. However, Gerrish does not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Fox et al., U.S. Patent 5,521,813, disclose a system and method which incorporates long-range weather forecasts in a predictive model, whereupon the impact of the weather upon managerial plans is predicted and the plans may be adjusted as appropriate. See e.g. Fox et al., col. 11, lines 42-59. However, Fox et al. do not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Clark Jr. et al., U.S. Patent 5,566,069, and Clark Jr. et al., U.S. Patent 6,064,943, both disclose an apparatus for the collection, sorting and storing of data relating to personal observations made by a farmer. Such information can be shared with other farmers to improve farming practices. See e.g. Clark Jr. et al. '069, col. 5, line 66 to col. 6, line 57 and col. 7, lines 15-32; Clark Jr. et al. '943, col. 6, lines 6-64 and col. 7, lines 21-39. Neither Clark Jr. et al. '069 nor '943 disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Lundgren, U.S. Patent 5,608,620, discloses a method of soliciting unbiased forecasts and rewarding the forecasters based on their predictive accuracy. The forecasts may include providing farmers with an accurate estimate of a price to expect for their harvest before planting. See e.g. Lundgren, col. 17, lines 10-29. However, Lundgren does not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Monson, U.S. Patent 5,689,418, discloses a network that stores data concerning field conditions and correlates the data with maps to help determine what conditions produce maximum yields. This information is then shared with other farmers over the network. See e.g. Monson, col. 7, line 66 to col. 8, line 19. Monson does not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Clark, Jr. et al., U.S. Patent 5,699,244, disclose a personal digital assistant (PDA) for collecting data pertaining to field observations to be analyzed and shared among farmers to develop better production and problem-solving methods. The PDA includes a global positioning device to correlate the data with geographic locations. See e.g. Clark Jr. et al. '244, col. 3, lines 41-52. Clark Jr. et al. '244 do not, among other things, disclose a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Chin et al., U.S. Patent 5,787,283, disclose a problem solver for use with manufacturing logistics. The apparatus represents real-world scenarios (i.e. manufacturing logistics problems) as mathematical formulas and solves them accordingly. The reference discloses a parable about a farmer (see col. 2, line 52, col. 4, line 20). Among other things, Chin et al. do not disclose a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

McNabb et al., U.S. Patent 5,884,224, disclose a device for detecting agronomic aspects of a field. See e.g. McNabb et al., col. 5, lines 19-36. The data can be used to aid the farmer in estimating crop yields (see col. 8, lines 26-56). However, McNabb et al. do not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Allen et al., U.S. Patent 5,884,225, disclose a system and method for predicting optimum harvest times for standing crops and providing farmers with crop characteristic predictions for a selected field based on stored crop and field information of standing crops. See e.g. Allen et al., col. 5, lines 7-17. Allen et al. do not disclose, among other things, a method or apparatus that determines possible offers to be made to the farms to grow a crop of interest.

Hargrove, Jr. et al., U.S. Patent 5,897,619, disclose a farm management system to aid in assessing crop insurability. See e.g. Hargrove, Jr. et al., col. 6, lines 42-56. Hargrove, Jr. et al. do not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

Aughenbaugh, U.S. Patent No. 6,002,984, discloses a method and system for managing and evaluating crops automatically such that the farmer does not have to record such data manually. "Data buttons" are placed throughout the field to remotely detect crop characteristics and communicate such data to a central computer. See e.g. Aughenbaugh, col. 3, line 57 to col. 4, line 23. Aughenbaugh does not disclose, among other things, a method or apparatus that determines possible offers to be made to farms to grow a crop of interest.

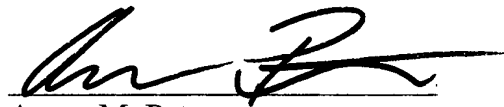
CONCLUSION

In summary, the applicants respectfully request that this application be granted special status for examination under 37 C.F.R. §1.102 and M.P.E.P. §708.02 (VIII).

Respectfully submitted,

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